Before The Hon'ble State Administrative Tribunal
Bench Raipur M.P.

O.A.No...178/98

WP(S) 2804/05

Applicant

Suresh prasad chandania
S/o Shri.S.B. chandania
aged 52 yrs, at present
working as L.D.C Revenue
department at Tahsil office
Nagri, Distt : Dhantari (M.P.)

V/s

Respondent

1. State of M.P. Through
The Principal secretary. Revenue
Department ,Vallabh Bhawan,
Bhopal.

2. The collector, Dhamtari
Distt : Dhamtari (M.P.)

3. The collector, Raipur
Distt : Raipur(M.P.)

4. The comissioner, Raipur division
Raipur (M.P.)

Application under Section 19 of Administrative tribunals Act 1985 :

1. Name and adress of applicant :- as stated above

2. Name and address of respondents :- as stated above

3. Paticulars of the orders against which application in made :-

a. (i) Order No :- Departmental enquiry
16 B/ 121 year 1994-95 Anexure.A-1

a (ii) Date :- 4 / 9 / 95.

a (iii) Passed by :- Collector, Raipur.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.2804 OF 2005

Suresh Prasad Chandania

versus

State of M.P. (now Chhattisgarh) and others

ORDER

Post for 9 -1-2007

Sd/-
Satish K. Agnihotri
Judge

(36)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.2804 OF 2005

Petitioner	:	Suresh Prasad Chandania
	versus	
Respondents	:	State of M.P. (now Chhattisgarh) and others

Present : Mr. Manoj Dubey, counsel for the petitioner.
Ms. Sunita Jain, Panel Lawyer for the State/respondents.

ORDER

(Passed on 9th Day of January, 2007)

By this writ petition, the petitioner has challenged the order dated 4-9-1995 (Annexure A-1), whereby the petitioner was demoted from the post of Accountant to the original post of Lower Division Clerk with the punishment of grant of subsistence allowance alone during the suspension period. The petitioner has further challenged the validity of the charge-sheet (Annexure A-4).

2. This petition was initially filed before the State Administrative Tribunal. On dissolution of the State Administrative Tribunal, this petition was transferred to this Court and numbered as above.

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3. The indisputable facts in nutshell are that the petitioner was appointed as Lower Division Clerk on 21-5-1973. Thereafter, he was promoted to the post of First Grade Clerk on 21-7-1981. Subsequently, by order dated 21-5-1983, the petitioner was promoted on the post of Accountant. On 18-1-1994 (Annexure A-3), the petitioner was suspended on the charges of irregularities in transaction of cash-book. The charge-sheet (Annexure A-4) was issued thereafter containing the following charges : -

"आरोप–पत्र

कंड़िका–(1) यह कि श्री चंदनिहा लेखापाल द्वारा विकास अधिकारी बिलाईगढ़ के कार्यविभाजन आदेश कमांक 52/दिनांक 6–7–93 में सौंपे गये कार्य नहीं किया गया । साथ ही समय–समय पर सौंपे गये कार्य नहीं किये ।

कंड़िका–(2) यह कि श्री चंदनिहा लेखापाल द्वारा लेखा संधारण कार्य 91–92 एवं 92–93 में रोकड़ पंजी में बहुतायत उपरिलेखन कर जान बुझकर त्रुटिपूर्ण लेखा संधारित किया गया । और अपनी इच्छा अनुसार लेखा संधारित किया ।

कंड़िका–(3) श्री चंदनिहा को कलेक्टर रायपुर के ज्ञापन कं. क/वि./डी–5–6–93 दिनांक 28–4–93 के आधार पर कार्य सम्पादन के निर्देश दिये गये थे किन्तु उनके द्वारा कोई कार्य सम्पादित नहीं किया गया ।

कंड़िका–(4) श्री चंदनिहा द्वारा अपने कर्तव्यों का निर्वाह न करते हुए कार्यालय में दुष प्रचार किया गया और विकास खण्ड़ अधिकारी से ज.रो.यो. अंतर्गत व्यय राशि में से 2% कमीशन की राशि के मान से

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70,000/– कमीशन राशि की मांग करते हुए दिनांक 2–9–93, 9–9–93 एवं 8–9–93 आवेदन कलेक्टर एवं अनुविभागीय अधिकारी को पेश किया । जो दुष चरित्र का परिचायक है ।

Sd/-
Collector
RAIPUR (M.P.)"

4. A departmental enquiry was initiated and on enquiry, charges No.1, 2 and 4 were found proved and charge No.3 was found partially proved against the petitioner. The Collector, by his order dated 4-9-1995 (Annexure A-1), agreeing with the enquiry report dated 2-2-1995, demoted the petitioner from the post of Accountant to the original post of Lower Division Clerk with grant of subsistence allowance alone during the suspension period. The petitioner was afforded an opportunity of hearing on the basis of enquiry report before the impugned order was passed, wherein it was held that the petitioner had committed grave misconduct.

5. The petitioner, being aggrieved, filed an appeal before the Commissioner. The Additional Commissioner, by his order dated 3-8-1998 (Annexure A-2), having considered the appeal in detail, confirmed the finding of the enquiry officer and the order dated 4-9-1995 (Annexure A-1) passed by the Collector.

6. The petitioner, by this petition, has impugned the order dated 4-9-1995 (Annexure A-1) passed by the Collector on the sole ground that the documents, required by the petitioner, were not

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supplied to him. On query as to whether the enquiry officer has relied on those documents, which were required by the petitioner, learned counsel appearing for the petitioner was not able to point out any portion, which dealt with the said documents and the enquiry officer held the charges proved on the basis of the said documents. The petition is very vague, cryptic and lacks relevant materials.

7. It is well settled principle that the enquiry cannot be held vitiated on the ground that certain documents, as required by the petitioner, not relied in the enquiry, were not supplied to him, and the enquiry officer has held the charges proved not on the basis of such documents. It is further well settled that the enquiry report is not perverse if the finding is based on some evidence and the delinquent employee has been afforded sufficient opportunity to put-forward his case and further by cross-examining the witnesses of the employer and the relevant documents are supplied in advance.

8. The Supreme Court, in the case of ***Kuldeep Singh*** **vs.** ***Commissioner of Police and others***[1], observed as under :-

> "9. Normally the High Court and this Court would not interfere with the findings of fact recorded at the domestic enquiry but if the finding of "guilt" is based on no evidence, it would be a perverse finding and would be amenable to judicial scrutiny."
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> "10. A broad distinction has, therefore, to be maintained between the decisions which are perverse and those which are not. If a decision is

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arrived at on no evidence or evidence which is thoroughly unreliable and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, howsoever compendious it may be, the conclusions would not be treated as perverse and the findings would not be interfered with."

9. The Supreme Court, in the case of ***Yoginath D. Bagde*** vs. ***State of Maharashtra and another***[2], observed as under :-

"51. ..... The law is well settled that if the findings are perverse and are not supported by evidence on record or the findings recorded at the domestic trial are such to which no reasonable person would have reached, it would be open to the High Court as also to this Court to interfere in the matter. In *Kuldeep Singh* v. *Commr. of Police*[19] this Court, relying upon the earlier decisions in *Nand Kishore Prasad* v. *State of Bihar*[20], *State of Andhra Pradesh* v. *Rama Rao*[21], *Central Bank of India Ltd.* v. *Prakash Chand Jain*[22], *Bharat Iron Works* v. *Bhagubhai Balubhai Patel*[23] as also *Rajinder Kumar Kindra* v. *Delhi Admn.*[24] laid down that although the court cannot sit in appeal over the findings recorded by the disciplinary authority or the enquiry officer in a departmental enquiry, it does not mean that in no circumstance can the court interfere. It was observed that the power of judicial review available to a High Court as also to this Court under the Constitution takes in its stride the domestic enquiry as well and the courts can interfere with the conclusions reached therein if

there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse."

10. The Supreme Court, in the case of ***V. Ramana*** **vs.** ***A.P. SRTC and others***[3], observed as under :-

"11. The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury case*[4] the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision for that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision."

11. The Supreme Court, in the case of ***Punjab State Civil Supplies Corpn. Ltd.*** **vs.** ***Sikander Singh***[4], observed as under :-

"40. The civil court could interfere with the said order in the event, inter alia, it was found that the order of dismissal by way of punishment had been imposed in violation of the procedures laid down in the statutory rules or in violation of the principles of natural justice or suffered from illegalities, or

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procedural irregularities were committed by the enquiry officer or the disciplinary authority in holding the departmental proceedings. ....."

12. The Supreme Court, in the case of ***Jayrajbhai Jayantibhai Patel*** **vs.** ***Anilbhai Nathubhai Patel and others***[5], observed as under :-

"18. Having regard to it all, it is manifest that the power of judicial review may not be exercised unless the administrative decision is illogical or suffers from procedural impropriety or it shocks the conscience of the court in the sense that it is in defiance of logic or moral standards but no standardised formula, universally applicable to all cases, can be evolved. Each case has to be considered on its own facts, depending upon the authority that exercises the power, the source, the nature or scope of power and the indelible effects it generates in the operation of law or affects the individual or society. ....."

13. The second alternative contention of the petitioner is that the punishment awarded to the petitioner be reduced in the interest of justice.

14. The petitioner has not pointed out any reason to consider reduction of the punishment as the punishment imposed does not shock the judicial conscience in the facts of the case. The scope of

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judicial review is limited to the deficiency in decision-making process and not the decision.

15. As a result and for the reasons above-stated, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 (1999) 2 SCC 10
2 (1999) 7 SCC 739
3 (2005) 7 SCC 338
4 (2006) 3 SCC 736
5 (2006) 8 SCC 200

Gopal